

**CITY OF LAKE ELMO
WASHINGTON COUNTY
STATE OF MINNESOTA**

RESOLUTION NO 2018-052

A RESOLUTION APPROVING A VARIANCE TO ALLOW THE EXPANSION OF A NON-CONFORMING STRUCTURE NOT MEETING THE MINIMUM SETBACKS FROM THE ORDINANCY HIGH WATER LEVEL, FRONT AND SIDE YARD SETBACKS, AND IMPERVIOUS SURFACE REQUIREMENTS FOR THE CITY'S SHORLAND DISTRICT AT 9369 JANE RD N.

WHEREAS, the City of Lake Elmo is a municipal corporation organized and existing under the laws of the State of Minnesota; and

WHEREAS, Adam Bender of ISPIRI LLC on behalf of David and Heide Offord, 9369 Jane Rd N, Lake Elmo MN 55042 (Applicant/Owner), has submitted an application to the City of Lake Elmo (the "City") for a variance to allow the expansion of a non-conforming structure not meeting the minimum structure setback from the Ordinary High Water Level (OHWL), front and side yard setbacks, and impervious surface requirements for the shoreland district. The proposed garage addition does encroach further into the front yard leaving a 12.9 ft. setback from Jane Rd, the new side yard setback from the deck will be 7.3 ft., and the setback from the OHWL for the deck will be 49.2 ft. However, the project will lower the impervious surface calculation from its current percentage of 36.7 to 34.1.

WHEREAS, notice has been published, mailed and posted pursuant to the Lake Elmo Zoning Ordinance, Section 154.109; and

WHEREAS, the Lake Elmo Planning Commission held a public hearing on said matter on May 7th, 2018; and

WHEREAS, the Lake Elmo Planning Commission has submitted its report and recommendation to the City Council as part of a Staff Memorandum dated May 15th, 2018; and

WHEREAS, the City Council considered said matter at its May 15th, 2018 meeting.

NOW, THEREFORE, based on the testimony elicited and information received, the City Council makes the following:

FINDINGS

- 1) That the procedures for obtaining said Variance are found in the Lake Elmo Zoning Ordinance, Section 154.109.
- 2) That all the submission requirements of said Section 154.109 have been met by the Applicant.
- 3) That the proposed variance includes the following components:
 - a) A variance to allow for the expansion and renovation of an existing single-family detached home which does not meet the minimum structure setback requirements of the OWHL, front and side yard setbacks, and impervious surface allowance.
- 4) That the Variance will be located on property legally described as follows:
SUBDIVISIONNAME BERSCHEN'S SHORES LOT 11 SUBDIVISIONCD 37090, 9369 Jane Rd North, Washington County, Minnesota with the following PID: 10.029.21.24.0007.

- 5) That the strict enforcement of Zoning Ordinance would cause practical difficulties and that the property owner proposes to use the property in a reasonable manner not permitted by an official control. ***Specific Finding: The subject property was platted prior (presumed before 1985) to current standards established for the current Ordinary High Water Level. Many homes, this one included, were platted without today's OHWL in mind. Because of this, property owners have had difficulty complying to the establish setback requirements of today. It does not seem reasonable to think homes will comply with both the front (30ft) and OHHW (75-100ft) setbacks. Compliance with both seems to be unlikely given the configuration of the lots created prior to current standards. Pertaining to the garage there seems to be no other location for it to be reasonably placed to reduce intrusion into setbacks. The deck also seems to be reasonably placed as any other location will put it closer to the OHWL and only a small section of the deck (steps) encroaches into the side yard. Another item to note is the impervious surface calculations will be reduced with the proposed project.***
- 6) The plight of the landowner is due to circumstances unique to the property not created by the landowner. ***Specific Findings: As mentioned above, the property is unique in that the plat was created in a way which did not provide adequate distance for compliance with today's setbacks from the OHWL. Due to the nature of the lot there seems to be limited improvements which a homeowner can make to their property without variance approval.***
- 7) The proposed variance will not alter the essential character of the locality in which the property in question is located. ***Specific Findings: The proposed addition would encroach further in to the front yard setback than other homes within the area. However, it does not drastically change the character of the locality, as the addition of the garage does not in and of itself change the function of the home. Side loaded garages are not a unique feature to homes, nor are decks. This also would not be the first homes in the area to have limited front yard space.***
- 8) The proposed variance will not impair an adequate supply of light and air to property adjacent to the property in question or substantially increase the congestion of the public streets or substantially diminish or impair property values within the neighborhood. ***Specific Findings: The proposed additions will not alter or impair supply of light or air to adjacent properties. The garage will not block an amount of wind or air from neighboring properties so that their use would be disrupted. The garage is also being proposed to increase traffic safety. Reconfiguration of the garage and driveway will allow motor vehicles to maneuver themselves in a way to pull out nose first onto the Jane road, which would increase safety. The addition is also not expected to diminish property values.***

CONCLUSIONS AND DECISION

Based on the foregoing, the Applicant's application for a Variance is granted, subject to the following conditions.

- 1) The Applicant shall secure any required permits and plan approvals from the City and other applicable jurisdictions.
- 2) Grading, erosion control, and stormwater management plans shall be submitted in conjunction with a building permit for the property and shall be approved by the City engineer.
- 3) The proposed retaining wall, if over four feet in height, shall be constructed by plans prepared by a professional engineer.
- 4) The applicant shall secure any required permits from the Valley Branch Watershed District prior to commencing any grading or construction activity on the site.
- 5) The deck shall not roofed.

Passed and duly adopted this 15th day of May, 2018 by the City Council of the City of Lake Elmo, Minnesota.



Mayor Mike Pearson

ATTEST:



Julie Johnson, City Clerk